

# **EXHIBIT “5”**

USDC SDNY  
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8/23/2019

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
RAFAEL FIGUEROA,

Plaintiff,

-against-

IRENE YAGUDAEV and SOLOMON YAGUDAEV,

Defendants.

-----X  
IRENE YAGUDAEV and SOLOMON YAGUDAEV,

Third-Party Plaintiffs,

- against -

NRG MAGIC CONSTRUCTION INC.,

Third-Party Defendant,  
-----X

Civil No.  
19-cv-210 (RA)

**CLERK'S  
CERTIFICATE  
OF DEFAULT**

I, RUBY J. KRAJICK, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action was removed from Supreme Court, County of Bronx, Index No.: 33227/2018E and transferred to the United States District Court for the Southern District of New York with the Notice of Removal filed on January 8, 2019, Doc. # 1.

Third-Party action was commenced on March 8, 2019 by Defendants/ Third-Party Plaintiffs, IRENE YAGUDAEV and SOLOMON YAGUDAEV, with the filing of a Third-Party Summons and Complaint, Doc. # 10-15. A copy of the Third-Party Summons and Complaint was served on the Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., on April 4, 2019 by *James J. Dougherty, a Clerk in the Office of* personally serving the Secretary of State of New York in the City of Albany and proof of service

was therefore filed on April 8, 2019, *Doc. # 16* and 17.

I further certify that the docket entries indicate that the Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., has not filed an Answer or otherwise moved with respect to the complaint herein. The default of the Third-Party Defendant, NRG MAGIC CONSTRUCTION INC., is hereby noted.

Dated: New York, New York

Aug 23, 2019

RUBY J. KRAJICK  
Clerk of Court

By. 

Deputy Clerk